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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

5 \* \* \*

6 James L. Brooks,

7 Plaintiff,

8 v.

9 Paul Hubbell, et al.,

10 Defendants.

Case No. 2:23-cv-00757-JAD-DJA

11 **Order**

12 This is a prisoner civil rights action. Plaintiff James L. Brooks is in the custody of the Ely  
13 State Prison. Plaintiff moves for appointment of counsel. (ECF No. 15). Because the Court  
14 finds that Plaintiff has not demonstrated exceptional circumstances, it denies his motion for  
15 appointment of counsel.

16 **I. Discussion.**

17 A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983  
18 civil rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Under 28 U.S.C.  
19 § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford  
20 counsel.” However, the court will appoint counsel for indigent civil litigants only in “exceptional  
21 circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When  
22 determining whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of  
23 success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light  
24 of the complexity of the legal issues involved.’” *Id.* “Neither of these considerations is  
25 dispositive and instead must be viewed together.” *Id.*

26 The Court denies Plaintiff’s motion because it does not find that he has demonstrated  
27 exceptional circumstances. Plaintiff has filed what appears to be a stock motion for appointment  
28 of counsel which does not explain why his particular circumstances are extraordinary such that an  
appointment of counsel is warranted. The stock motion refers to the Federal Rules of Criminal

1 Procedure, which do not apply to this civil case. Plaintiff has also thus far demonstrated an  
2 ability to articulate his claims. And, without prejudging the outcome, it is unclear whether  
3 Plaintiff will succeed on the merits of his claims. Finally, Plaintiff's mail has been returned as  
4 undeliverable. (ECF Nos. 13, 14). The Court will thus require that Plaintiff update his address as  
5 required by Nevada Local Rule IA 3-1.

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7 **ORDER**

8 **IT IS THEREFORE ORDERED** that Plaintiff's motion for appointment of counsel (ECF  
9 No. 15) is **denied without prejudice**.

10 **IT IS FURTHER ORDERED** that Plaintiff must update his address on or before  
11 **November 27, 2023. Failure to comply with this order may result in the recommended**  
12 **dismissal of this case.**

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14 DATED: October 26, 2023

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17 DANIEL J. ALBREGTS  
18 UNITED STATES MAGISTRATE JUDGE  
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